

REMARKS

In response to the above identified Office Action, Applicants seek reconsideration thereof in view of the following remarks. In the response, Applicants do not add, amend or cancel any claims. Accordingly, claims 51-65 and 89 remain pending in the application.

I. Claims Rejected Under 35 U.S.C. § 112

Claims 51 and 89 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner rejects these claims for including the elements "observing an activity of the user." The Examiner states that these elements are "wholly unsupported by the specification submitted with the application". Applicants point the Examiner to paragraph 67 and Figure 8 of the application. Specifically, block 805 in Figure 8 and paragraph 67 discuss the tracking of user responses and input during the playback of audio or video content. User interactivity with the system including providing responses and input to the computer system is a type of activity. Tracking inputs and responses is a type of observation. Further, paragraph 67 discusses the tracking of input including "infrared camera readings, controller usage, user movement, restlessness and similar information" that clearly supports the element of observing the activity of the user. Thus, the specification meets the requirements of 35 U.S.C. § 112, first paragraph. Accordingly, reconsideration and withdrawal of the non-enablement requirement are requested.

Claims 52 through 68 have also been rejected for inheriting the deficiencies of independent claim 51. For all the reasons mentioned above, these claims are also

enabled by the specification. Accordingly reconsideration and withdrawal of the non-enablement requirement of claims 52 through 68 are requested.

II. Claims Rejected Under 35 U.S.C. § 112, second paragraph

Claims 51 and 89 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The Examiner has rejected claims 51 and 89 for using the term "inferring". The Examiner argues that "an inference is inherently an abstract means for determining a quantifiable characteristic and is dependent upon the capabilities of the individual performing the inference." Applicants respectfully disagree. The term 'inferring' in the context of the present invention clearly can be understood by one of ordinary skill in the art to be a type of logical process that is capable of implementation through artificial intelligence. The term 'infer' is defined as "reason by deduction; established by deduction" or alternatively, "conclude by reasoning; in logic". See Word Net 2.0 2003, Princeton University. Thus, to infer the extent of knowledge of the user is not an abstract process but is rather a process based on logic. Accordingly, reconsideration and withdrawal of the indefiniteness rejection of claims 51 and 89 are requested.

Claims 52 through 68 depend from independent claim 51 and have been rejected for inheriting the use of this term. Thus, for the reasons set forth above, Applicants believe that claims 52 through 68 are not indefinite. Accordingly reconsideration and withdrawal of the indefiniteness rejection of claims 52 through 68 are requested.

III. Claims Rejected Under 35 U.S.C. § 102

Claims 51-54, 59-61, 63-66 and 89 stand rejected under 35 U.S.C. § 102(a) as being anticipated by U. S. Patent No. 6,632,094 issued to Falcon et al, hereinafter "Falcon." Applicants respectfully disagree for the following reasons.

It is axiomatic that to anticipate a claim the Examiner must establish that a single reference teaches each of the elements of the claim. In regard to claims 51 and 89, each of these claims include the elements of "inferring the extent of knowledge of a language of the user." The Examiner has not set forth and Applicants have been unable to discern any part of Falcon that teaches these elements of claims 51 and 89. Rather, the Examiner has only set forth or argued that Falcon teaches tracking the playback position for a user when viewing media. The Examiner's assertions do not set forth that Falcon teaches discerning the knowledge level of a user. Thus, the Examiner has not established anticipation of this element of claim 51 and 89.

Further, the section of Falcon which the Examiner relies on in his discussion of the tracking of playback position does not seem to correspond with his arguments. Rather this section of Falcon teaches a system for specifically identifying where words and sentences end in an audio track so that graphic frames may be tied to the end points of these words. See column 10, lines 1-37 of Falcon. It is unclear to the Applicants how this system anticipates the elements of claims 51 and 89. Therefore, the Examiner has failed to establish that Falcon anticipates claims 51 and 89. Accordingly, reconsideration and withdrawal of the anticipation rejection of claims 51 and 89 are requested.

In regard to dependent claims 52-54, 59-61, 63-66, these claims depend from independent claim 51 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 51, these claims are not anticipated by Falcon. Accordingly, reconsideration and withdrawal of the anticipation rejection of these claims are requested.

Claim 55 stands rejected under 35 U.S.C. § 102 as being anticipated by U. S. Patent No. 5,882,202 issued to Sameth et al, hereafter "Sameth." Applicants respectfully disagree for the following reasons.

Claim 55 is dependent from independent claim 51. The Examiner has only set forth a discussion of Sameth relating directly to the elements of claim 55. However, the Examiner has ignored the elements of independent claim 51 from which claim 55 depends. Each of these elements is also incorporated into claim 55. Therefore, the Examiner has failed to establish that Sameth anticipates each of the elements of dependent claim 55. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 55 are requested.

IV. Claims Rejected Under 35 U.S.C. § 103

Claims 67 and 68 stand rejected under 35 U.S.C. § 103 as being unpatentable over Falcon in view of U. S. Patent No. 6,302,695 issued to Rtischev et al, hereafter "Rtischev." Applicants disagree for the following reasons.

To establish a *prima facie* case of obviousness, the Examiner must show that the cited references, combined, teach or suggest each of the elements in the claims. Claims 67 and 68 depend from independent claim 51 and incorporate the limitations thereof. Specifically, these claims include the elements of "inferring the extent of

knowledge of a language of a user.” As discussed above, with regard to the anticipation rejection of claim 51, Applicants do not believe that Falcon teaches or suggests these elements. Further, Rtischev does not cure these defects of Falcon. The Examiner does not rely on Rtischev for teaching these elements and has not set forth how Rtischev would cure the defects of Falcon by teaching these elements. Thus, the Examiner has not identified and the Applicants have been unable to discern any part of Rtischev that would teach inferring the extent of knowledge of a language of the user. Therefore, Falcon in view of Rtischev does not teach or suggest each of the elements of claims 67 and 68. Accordingly, reconsideration and withdrawal of the obviousness rejection of claims 67 and 68 are requested.

Claims 56-58 and 62 stand rejected under 35 U.S.C. § 103 as being unpatentable over Falcon in view of Sameth in view of U. S. Patent No. 5,794,203 issued to Kehoe et al, hereinafter “Kehoe.” Applicants respectfully disagree for the following reasons.

Claims 56-58 and 62 depend from independent claim 51 and incorporate the limitations thereof. Specifically, the elements of “inferring the extent of knowledge of a language of a user.” For the reasons set forth above in regard to the anticipation rejection of claim 51 over Falcon, Applicants believe that Falcon does not teach or suggest these elements of claims 56-58 and 62. Further the Examiner has not relied on Sameth or Kehoe to cure these defects of Falcon. Thus, the Examiner has not identified and the Applicants have been unable to discern any part of Falcon, Sameth or Kehoe that teaches or suggests these elements of claims 56-58 and 62. Thus, Falcon in view of Sameth and Kehoe does not teach or suggest each of the

elements of these claims. Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims are requested.



CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 51-68 and 89 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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Dated: _____

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 22, 2004.

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